



COPY

U.S. Department of Justice

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September 11, 2020

BR
9/11/2020

VIA HAND DELIVERY

Briana Kottke
Ste 501, FHB Bldg.
400 Rte 8
Maite, Guam 96910

Re: United States v. Ricky Santos, CR 20-00021

Dear Briana:

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, and the Court's Standing Order on Criminal Discovery, enclosed is the discovery that consists of a CD that documents bates stamped RSANTOS-00001 to RSANTOS-00315.

The Government is also in the process of seeking *Henthorn* material. Once we receive the information, if any, we will forward any information that is required to be disclosed pursuant to *United States v. Henthorn*, 931 F.2d 29 (9th Cir. 1991) for any law enforcement witness we intend to call at trial. The Government hereby advises the defendant that it intends to introduce evidence listed in Federal Rule of Evidence 404(b) in its case-in-chief at trial.

Pursuant to U.S. Department of Justice policies, the United States Attorney's Office is required to use CheckPoint encryption when transmitting Limited Official Use (LOU) information or sensitive information to entities outside the USAO computer network using removable media such as CDs, DVDs, thumb drives, external hard drives, etc.

Enclosed are instructions on how to decrypt/access removable media encrypted by the U.S. Attorney's Office for the Districts of Guam and the Northern Mariana Islands. The password to decrypt/access the enclosed removable media is: USAGUdisco!1 If the recipient of the removable media is using a system without CheckPoint, please take note of the "caution" provisions on page 5 of the attached instructions to avoid inadvertently deleting files from the removable media.



The Government hereby respectfully requests reciprocal discovery under Rule 16(b). Specifically, we request that you allow inspection and copying of: (1) any books, or copies or portions thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial; and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial, or which were prepared by a witness whom the defendant intends to call at trial.

The Government also requests that the defendant disclose prior statements of witnesses he will call to testify. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 225 (1975).

Fed. R. Crim. P. 12.2 requires you to provide the Government with written notice if the defendant intends to rely on the defense of insanity at the time of the alleged crime or intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he had the mental state required for the offenses charged.

Fed. R. Crim. P. 12.3(a) requires you to provide the Government with written notice if the defendant intends to claim a defense of actual or believed exercise of public authority on behalf of a law enforcement or Federal intelligence agency at the time of the alleged crime.

The enclosed materials and any future discovery provided to you, which may exceed the scope of discovery mandated by the Court, the Federal Rules of Criminal Procedure, federal statute or relevant case law is provided voluntarily as a matter of discretion solely to expedite and facilitate litigation of this case. By producing such materials to you, the Government does not waive its right to object to any future discovery requests beyond the ambit of its legal obligations. I will provide further discovery as it is received, pursuant to my continuing duty under Rule 16(c).

Please feel free to contact me at your convenience to discuss a possible resolution and/or the discovery information that has been provided. I can be reached at (671) 479-4115. Also, my email address is rosetta.sannicolas@usdoj.gov.

SHAWN N. ANDERSON
United States Attorney
Districts of Guam and NMI

By: /s/ Rosetta L. San Nicolas
ROSETTA L. SAN NICOLAS
Assistant U.S. Attorney

Enclosure